

Department of Energy

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(2) The categories of individuals on whom records are maintained in the system;

(3) The categories of records maintained in the system;

(4) Each routine use of the records contained in the system, including the categories of users and the purpose of such use, subject to paragraph (d) of this section;

(5) The policies and practices of the DOE regarding storage, retrievability, access controls, retention, and disposal of the records;

(6) The title and business address of the DOE official who is responsible for the system of records;

(7) The DOE procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(8) The DOE procedures whereby an individual can be notified at his request about how he can gain access to any record pertaining to him contained in the system or records, and how he can contest its content; and

(9) The categories of source of records in the systems.

(b) Notwithstanding the requirements of paragraph (a) of this section, the notice of systems of records shall not necessarily include the information in paragraphs (a) (7) through (9) of this section if DOE has claimed a general or specific exemption from the requirements of the Act, as provided in § 1008.12.

(c) Copies of the notices as printed in the FEDERAL REGISTER shall be available at the DOE locations listed at § 1008.2(c). Requests by mail for copies of such notices should be sent to Privacy Act Officer, Headquarters, U.S. Department of Energy, Washington, DC. 20585. The first copy will be furnished free of charge. For each additional copy, the costs of printing and handling may be charged.

(d) DOE shall publish in the FEDERAL REGISTER notice of any new routine use or intended routine use of a record in the system of records, at least 30 calendar days prior to the implementation of any new routine use of a record in a system of records, or at least 30 calendar days prior to publication of the annual notice of such routine uses, as provided in paragraph (a) of this sec-

tion, an opportunity for interested persons to submit written comments consisting of data, views, or arguments regarding such use to DOE, shall be provided.

§ 1008.24 Criminal penalties—failure to publish a system notice.

Subsection (i)(2) of the Act provides that an agency officer or employee who willfully maintains a system of records without publishing a system notice as required by subsection (e)(4) of the Act shall be guilty of a misdemeanor and fined up to \$5,000.

PART 1009—GENERAL POLICY FOR PRICING AND CHARGING FOR MATERIALS AND SERVICES SOLD BY DOE

Sec.

1009.1 Purpose and scope.

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AUTHORITY: Sec. 644 of the Dept. of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7254); Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.) "User Fee Statute", 31 U.S.C. 483a, 42 U.S.C. 2111, 2112 and 2201.

SOURCE: 45 FR 70430, Oct. 24, 1980, unless otherwise noted.

§ 1009.1 Purpose and scope.

(a) This part establishes Department of Energy policy for establishing prices and charges for Department materials and services sold to organizations and persons outside the Federal Government.

(b) This part applies to all elements of the Department except the Federal Energy Regulatory Commission.

§ 1009.2 Definitions.

For the purposes of this regulation:

(a) *Allocable cost* means a cost allocable to a particular cost objective (i.e., a specific function, project, process, or organization) if the costs incurred are chargeable or assignable to such cost objectives in accordance with the relative benefits received or other equitable relationships. Subject to the foregoing, a cost is allocable if:

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(1) It is incurred solely for materials or services sold;

(2) It benefits both the customer and the Department in proportions that can be approximated through use of reasonable methods, or

(3) It is necessary to the overall operation of the Department and is deemed to be assignable in part to materials or services sold.

(b) *Byproduct material* means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(c) *Charges* means an accumulation of job related costs for materials and services sold by the Department.

(d) *Commercial price* means the price that a willing buyer is currently paying or would pay a willing seller for materials and services in the market.

(e) *Direct cost* is any cost which can be identified specifically with a particular final cost objective.

(f) *Full cost* includes all direct costs and all allocable costs of producing the material or providing the service consistent with generally accepted accounting principles. Direct costs and allocable costs may include, but are not limited to, the following cost elements:

- (1) Direct labor.
- (2) Personnel fringe benefits.
- (3) Direct materials.
- (4) Other direct costs.
- (5) Processing materials and chemicals.
- (6) Power and other utilities.
- (7) Maintenance.
- (8) Indirect cost, i.e., common costs which cannot be directly assigned to specific cost objectives and are therefore allocated to cost objectives in a systematic cost allocation process.
- (9) Depreciation which includes depreciation costs that are directly associated with facilities and equipment utilized, and allocated depreciation costs for support and general facilities and equipment.
- (10) Added factor includes general and administrative costs and other support costs that are incurred for the benefit of the Department, an organizational unit or a material or service as a whole.

(g) *Prices* means the monetary amounts generally established and published for recurring sales of the same materials and services.

(h) *Source material* means uranium or thorium.

(i) *Special nuclear material* means plutonium, uranium enriched in the isotope 233 or in the isotope 235, or any materials artificially enriched by any of the foregoing. Special Nuclear Material does not include source material.

§ 1009.3 Policy.

(a) The Department's price or charge for materials and services sold to persons and organizations outside the Federal Government shall be the Government's full cost for those materials and services, unless otherwise provided in this part.

(b) Exceptions from the Department pricing and charging policy may be authorized in accordance with the following provisions:

(1) Prices and charges for byproduct material sold pursuant to 42 U.S.C. 2111 and 2112 et seq. shall be either the full cost recovery price or the commercial price, whichever is higher, except that lower prices and charges may be established by the Department if it is determined that such lower prices and charges (i) will provide reasonable compensation to the Government for such material, (ii) will not discourage the use of or the development of sources of supply independent of the DOE of such material, and (iii) will encourage research and development. In individual cases, if (ii) and (iii) cannot be equally accommodated, greater weight will be given to encouragement of research and development.

(2) Prices and charges for materials and services sold pursuant to 42 U.S.C. 2201 shall be either the full cost recovery price or the commercial price, whichever is higher, except that lower prices and charges may be established by the Department if it is determined that such lower prices and charges will provide reasonable compensation to the Government and will not discourage the development of sources of supply independent of the DOE of such material.

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§ 1009.4 Exclusions.

This part shall not apply when the amount to be priced or charged is otherwise provided for by statute, Executive Order, or regulations. This part does not apply to:

(a) Fees, penalties and fines established by the Economic Regulatory Administration of DOE.

(b) Power marketing and related activities of the Alaska Power Administration, the Bonneville Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, and the Western Power Administration.

(c) Crude oil, natural gas and other petroleum products and services by or from the Naval Petroleum and Oil Shale Reserves.

(d) Uranium enriching services, source material, and special nuclear material.

(e) Requests for information under the Freedom of Information Act and the Privacy Act.

(f) Energy data and information provided by the Energy Information Administration.

(g) Crude oil and related materials and services from the Strategic Petroleum Reserve.

(h) The disposal of excess and surplus property.

(i) Access permits for uranium enrichment technology issued in accordance with 10 CFR part 725.

(j) Materials and services provided pursuant to a cooperative agreement, research assistance contract or grant, or made available to a DOE contractor in connection with a contract, the primary purpose of which is to procure materials or services for DOE.

§ 1009.5 Supersessions.

Prices which appear in FEDERAL REGISTER Notices previously published by the Department, or its predecessor agencies, for materials and services covered by this rule are hereby superseded.

§ 1009.6 Dissemination of prices and charges.

Current prices and charges for specific materials and services are available from the DOE laboratory or office providing the material or service, or

from the responsible program office. If this office cannot be determined, inquiries regarding the appropriate contact office should be addressed to the Office, of Finance and Accounting, Product Accounting and Pricing Branch, Mail Station 4A-139, 1000 Independence Avenue, SW., Washington, DC 20585.

PART 1010—CONDUCT OF EMPLOYEES

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1010.101 General.

1010.102 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

1010.103 Reporting wrongdoing.

1010.104 Cooperation with the Inspector General.

1010.105 Conflict of interest waiver.

AUTHORITY: 5 U.S.C. 301, 303; 5 U.S.C. App. (Inspector General Act of 1978); 18 U.S.C. 208; and E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

SOURCE: 61 FR 35088, July 5, 1996, unless otherwise noted.

§ 1010.101 General.

This part applies to employees of the Department of Energy (DOE), excluding employees of the Federal Energy Regulatory Commission.

§ 1010.102 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of DOE are subject to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, the DOE regulation at 5 CFR part 3301 which supplements the executive branch-wide standards, the executive branch-wide financial disclosure regulations at 5 CFR part 2634, and the executive branch-wide employee responsibilities and conduct regulation at 5 CFR part 735.

§ 1010.103 Reporting wrongdoing.

(a) Employees shall, in fulfilling the obligation of 5 CFR 2635.101(b)(11), report fraud, waste, abuse, and corruption in DOE programs, including on the part of DOE employees, contractors, subcontractors, grantees, or other recipients of DOE financial assistance, to